



OVERSIGHT AND
COMPLIANCE

OFFICE OF THE DEPUTY CHIEF MANAGEMENT OFFICER
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WASHINGTON, DC 20301-9010

JUN 23 2016

MEMORANDUM FOR COMMITTEE MANAGEMENT SECRETARIAT, GENERAL
SERVICES ADMINISTRATION

SUBJECT: Charter Renewal and Membership Balance Plan Consultation – *Uniform Formulary
Beneficiary Advisory Panel*

The Department of Defense, pursuant to the Federal Advisory Committee Act of 1972, as amended, intends to renew the charter for the *Uniform Formulary Beneficiary Advisory Panel* ("the Panel") (attached). The Panel will operate under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended) and in accordance with 41 CFR § 102-3.50.

Prior to filing the Panel's charter with the Library of Congress and the appropriate congressional committees the Department of Defense respectively requests that the Committee Management Secretariat review and approve the proposed charter and membership balance plan (attached). Both documents has been reviewed and approved by the Office of the General Counsel for the Department of Defense.

If you should have any questions about this charter please contact my point of contact, Len O'Reilly, at 703-692-5949.

James D. Freeman II
Advisory Committee Management
Officer for the Department of Defense

Attachments
As stated

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Agency: Department of Defense (DoD)

1. Authority: The Secretary of Defense, pursuant to 10 U.S.C. § 1074(c)(1) and in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 C.F.R. § 102-3.50(d), established the Uniform Formulary Beneficiary Advisory Panel ("the Panel"), a statutory advisory committee.
2. Mission/Function: Pursuant to 10 U.S.C. § 1074g(c)(1), the Panel shall provide the Secretary of Defense and the Deputy Secretary of Defense, through the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), the Assistant Secretary of Defense for Health Affairs (ASD(HA)), and the Director, Defense Health Agency, independent advice and recommendations on the development of the uniform formulary. The Secretary of Defense shall consider the comments of the Panel before implementing the uniform formulary or implementing changes to the uniform formulary.
3. Points of View: The Panel, pursuant to 10 U.S.C. § 1074g(c)(2), shall be composed of no more than 15 members that represent:
 - a. Non-governmental organizations and associations that represent the views and interests of a large number of eligible covered beneficiaries;
 - b. Contractors responsible for the TRICARE retail pharmacy program;
 - c. Contractors responsible for the national mail-order pharmacy program; and
 - d. TRICARE network providers.

Panel members, who are not full-time or permanent part-time Federal officers or employees, will be appointed as experts or consultants pursuant to 5 U.S.C. § 3109 to serve as special government employee (SGE) members. Panel members who are full-time or permanent part-time Federal officers or employees will be appointed pursuant to 41 C.F.R. § 102-3.130(a) to serve as RGE members.

The DoD, in selecting potential candidates for the Panel, reviews the educational and professional credentials of individuals and bases its selection on this review and the subject matters being handled by the Panel. The DoD has found that viewing the complex issues facing the DoD through a multidisciplinary advisory committee, provides the DoD and, more importantly, the American public with a broader understanding of the issues on which subsequent policy decisions will be based.

The Panel's membership balance is not static, and the Secretary of Defense may change the membership based upon work assigned to the Panel by the Secretary of Defense, the Deputy Secretary of Defense, or the USD(P&R), as the Sponsor. The DoD, unless otherwise provided for by statute or Presidential directive, does not use representative members on DoD-established or supported advisory committees.

Each member, based upon his or her individual and professional experience, provides his or her best judgment on the matters before him or her and does so

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without representing any particular point of view and in a manner that is free from conflict of interest.

4. Other Balance Factors: NA
5. Candidate Identification Process: The DoD, in selecting potential candidates for the Panel, reviews the educational and professional credentials of individuals with extensive professional experience in organizations that represent the views and interests of a large number of eligible covered beneficiaries, contractors responsible for the TRICARE retail pharmacy program, contractors responsible for the national mail-order pharmacy program, and TRICARE network providers as required by 10 U.S.C. § 1074g(c)(2).

Potential candidates are identified when the USD(P&R) requests recommendations from senior career and political officials within DoD and from former and existing Panel members.

Once potential candidates are identified, the Designated Federal Officer, in consultation with the USD(P&R), will review the credentials of each individual and narrows the list of candidates. During the review, he or she strives to achieve a balance between the professional credentials of the individuals and the near-term subject matter to be reviewed by the Panel to achieve expertise in points of view to be represented and functions to be performed.

Once the USD(P&R) has narrowed the list of candidates and before formal nomination to the Secretary of Defense or the Deputy Secretary of Defense, the list of candidates will undergo a review by the Office of the General Counsel for the Department of Defense and the Office of the Advisory Committee Management Officer to ensure compliance with Federal and DoD governance requirements, including compliance with the Panel's statute, charter, and membership balance plan. Following this review, the USD(P&R) discusses his or her potential nominees with the Secretary of Defense or the Deputy Secretary of Defense and requests authority to proceed with the nominations.

The USD(P&R) is authorized to administratively certify the appointment of Panel members that were previously authorized by the Secretary of Defense or the Deputy Secretary of Defense. Consistent with Deputy Secretary of Defense policy and the authority delegated to the Advisory Committee Management Officer (ACMO) by the Assistant Deputy Chief Management Officer, the ACMO is authorized to administratively certify the annual renewal of appointment of Panel members previously approved according to DoD policies and procedures. Consistent with the Deputy Secretary of Defense policy, the USD(P&R) may appoint the Panel's Co-Chairs from among the membership previously authorized by the Secretary of Defense or Deputy Secretary of Defense and, in doing so, shall determine the term of service, which shall not exceed the member's approved term of service.

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Following the Secretary of Defense or the Deputy Secretary of Defense authorization and the USD(P&R)'s subsequent administrative certification of the appointment, the candidates are required to complete the necessary appointment paperwork, to include meeting the appropriate ethics requirements stipulated by the Office of Government Ethics for advisory committee members.

Panel members will be appointed for a term of service of one-to-four years, subject to annual renewals, according to DoD policies and procedures. No member, unless authorized by the Secretary of Defense or the Deputy Secretary of Defense, may serve more than two consecutive terms of service on the Panel, to include its subcommittees, or serve on more than two DoD federal advisory committees at one time.

Membership vacancies for the Panel will be filled in the same manner as described in the previous seven paragraphs above.

6. Subcommittee Balance: DoD, when necessary and consistent with the Panel's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Panel.

Individuals considered for appointment to any subcommittee of the Panel may come from the Panel itself or from new nominees, as recommended by the USD(P&R) and based upon the subject matter under consideration. Pursuant to Secretary of Defense policy, the USD(P&R) is authorized to administratively certify the appointment of subcommittee members if the Secretary of Defense or the Deputy Secretary of Defense has previously authorized the individual's appointment to the Panel or another DoD advisory committee. If this prior authorization has not occurred, then the individual's subcommittee appointment must first be authorized by the Secretary of Defense or the Deputy Secretary of Defense and subsequently administratively certified by the USD(P&R).

Consistent with Deputy Secretary of Defense policy, the USD(P&R) may appoint the subcommittee's Chair from among the membership previously authorized by the Secretary of Defense or Deputy Secretary of Defense and, in doing so, shall determine the term of service, which shall not exceed the member's approved term of service.

Subcommittee members will be appointed for a term of service of one-to-four years, subject to annual renewals; however, no member shall serve more than two consecutive terms of service on the subcommittee, without prior authorization by the Secretary of Defense or the Deputy Secretary of Defense. Subcommittee members, if not full-time or permanent part-time Federal officers or employees, will be appointed as experts or consultants pursuant to 5 U.S.C. § 3109 to serve as SGE members. Subcommittee members who are full-time or permanent part-time Federal officers or employees will serve as RGE members pursuant to 41 C.F.R. § 10-3.130(a).

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7. Other: As nominees are considered for appointment to the Panel and/or its subcommittees, the DoD adheres to the Office of Management and Budget's Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards, and Commissions (79 FR 47482; August 13, 2014) and the rules and regulations issued by the Office of Government Ethics.
8. Date Prepared/Updated:

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1. Committee's Official Designation: The committee will be known as the Uniform Formulary Beneficiary Advisory Panel ("the Panel").
2. Authority: The Secretary of Defense, pursuant to 10 U.S.C. § 1074g(c)(1) and in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 C.F.R. § 102-3.50(d), established this non-discretionary Panel.
3. Objectives and Scope of Activities: The Panel shall provide advice and recommendations on the development of the uniform formulary, as set out in paragraph four below.
4. Description of Duties: As directed by 10 U.S.C. § 1074g(c)(1), the Panel shall provide the Secretary of Defense and the Deputy Secretary of Defense, through the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), the Assistant Secretary of Defense for Health Affairs (ASD(HA)), and the Director, Defense Health Agency (DHA), independent advice and recommendations on the development of the uniform formulary. The Secretary of Defense shall consider the comments of the Panel before implementing the uniform formulary or implementing changes to the uniform formulary.
5. Agency or Official to Whom the Committee Reports: The Panel reports to the Secretary of Defense and/or the Deputy Secretary of Defense, through the USD(P&R), the ASD(HA), and the Director, DHA. The USD(P&R), or designated representative, pursuant to Department of Defense (DoD) policy, may act upon the Panel's advice and recommendations.
6. Support: The DoD, through the Office of the USD(P&R) and the DHA, shall support the Panel and shall ensure compliance with requirements of the FACA, the Government in the Sunshine Act of 1976 (5 U.S.C. § 552b, as amended) ("the Sunshine Act"), governing Federal statutes and regulations, and established DoD policies and procedures.
7. Estimated Annual Operating Costs and Staff Years: The estimated annual operating cost, to include travel, meetings, and contract support, is approximately \$53,000.00. The estimated annual personnel cost to the DoD is 0.3 full-time equivalents.
8. Designated Federal Officer: The Panel's Designated Federal Officer (DFO), pursuant to DoD policy, shall be a full-time or permanent part-time DoD officer or employee, designated in accordance with established DoD policies and procedures.

The Panel's DFO is required to be in attendance at all meetings of the Panel and any subcommittees for the entire duration of each and every meeting. However, in the absence of the Panel's DFO, a properly approved Alternate DFO duly designated to the Panel according to established DoD policies and procedures, must attend the entire duration of all of the Panel or subcommittee meetings.

The DFO, or the Alternate DFO, calls all Panel and subcommittee meetings; prepares and approves all meeting agendas; and adjourns any meeting when the DFO, or the Alternate DFO, determines adjournment to be in the public interest or required by governing

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regulations or DoD policies and procedures.

9. Estimated Number and Frequency of Meetings: The Panel meets at the call of the Panel's DFO, in consultation with the Panel's Chair. The estimated number of Panel meetings is four per year.
10. Duration: The need for this advisory function is on a continuing basis; however, this charter is subject to renewal every two years.
11. Termination: The Panel terminates upon rescission of 10 U.S.C. § 1074g(c).
12. Membership and Designation: Under the provisions of 10 U.S.C. § 1074g(c)(2), the Panel shall be composed of no more than 15 members. The Panel shall include members that represent:
 - a. Non-governmental organizations and associations that represent the views and interests of a large number of eligible covered beneficiaries;
 - b. Contractors responsible for the TRICARE retail pharmacy program;
 - c. Contractors responsible for the national mail-order pharmacy program; and
 - d. TRICARE network providers.

The appointment of Panel members will be authorized by the Secretary of Defense or the Deputy Secretary of Defense and administratively certified by the USD(P&R), as the Sponsor, for a term of service of one-to-four years, with annual renewals, in accordance with DoD policies and procedures. Members of the Panel who are not full-time or permanent part-time Federal officers or employees will be appointed as experts or consultants pursuant to 5 U.S.C. § 3109 to serve as special government employee (SGE) members. Panel members who are full-time or permanent part-time Federal officers or employees will be appointed pursuant to 41 C.F.R. § 102-3.130(a) to serve as regular government employee (RGE) members. No member, unless authorized by the Secretary of Defense or the Deputy Secretary of Defense, may serve more than two consecutive terms of service on the Panel, to include its subcommittees, or serve on more than two DoD federal advisory committees at one time.

Consistent with Deputy Secretary of Defense policy, the USD(P&R) may appoint the Panel's Co-Chairs from among the membership previously approved according to DoD policies and procedures and in doing so, shall determine the term of service for the Panel's Co-Chairs, which shall not exceed the member's approved term of service.

All members of the Panel are appointed to provide advice on the basis of their best judgment without representing any particular points of view and in a manner that is free from conflict of interest.

Except for reimbursement of official Panel-related travel and per diem, Panel members serve without compensation.

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13. Subcommittees: DoD, when necessary and consistent with the Panel's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Panel. Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the USD(P&R), as the Panel's Sponsor.

Such subcommittees will not work independently of the Panel and shall report all of their recommendations and advice solely to the Panel for full and open deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Panel. No subcommittee or any of its members can provide updates or reports, verbally or in writing, on behalf of the Panel, directly to the DoD or any Federal officers or employees. If a majority of Panel members are appointed to a particular subcommittee, then that subcommittee may be required to operate pursuant to the same notice and openness requirements of the FACA which govern the Panel's operations.

Pursuant to Secretary of Defense policy, the USD(P&R) is authorized to administratively certify the appointment of subcommittee members if the Secretary of Defense or the Deputy Secretary of Defense has previously authorized the individual's appointment to the Panel or another DoD advisory committee. If this prior authorization has not occurred, then the individual's subcommittee appointment must first be authorized by the Secretary of Defense or the Deputy Secretary of Defense and subsequently administratively certified by the USD(P&R).

Subcommittee members will be appointed for a term of service of one-to-four years, subject to annual renewals, according to DoD policies and procedures; however, no member shall serve more than two consecutive terms of service on the subcommittee, without Secretary of Defense or Deputy Secretary of Defense authorization. Subcommittee members, if not full-time or permanent part-time Federal officers or employees, will be appointed as experts or consultants pursuant to 5 U.S.C. § 3109 to serve as SGE members. Subcommittee members who are full-time or permanent part-time Federal officers or employees will be appointed pursuant to 41 C.F.R. § 102-3.130(a) to serve as RGE members.

Consistent with Deputy Secretary of Defense policy, the USD(P&R) may appoint the subcommittee's Chair from among the membership previously authorized by the Secretary of Defense or Deputy Secretary of Defense and in doing so, shall determine the term of service for the subcommittee's Chair, which shall not exceed the member's approved term of service.

Each member, based upon his or her individual professional experience, provides his or her best judgment on the matters before the Panel, and he or she does so in a manner that is free from conflict of interest.

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With the exception of reimbursement for travel and per diem as it pertains to official travel related to the Panel or its subcommittees, subcommittee members shall serve without compensation.

All subcommittees operate under the provisions of the FACA, the Sunshine Act, governing Federal statutes and regulations, and established DoD policies and procedures.

14. Recordkeeping: The records of the Panel and its subcommittees shall be handled in accordance with General Records Schedule 6.2, Federal Advisory Committee Records, or other approved agency records disposition schedule, as well as the appropriate DoD policies and procedures. These records will be available for public inspection and copying, subject to the Freedom of Information Act of 1966 (5 U.S.C. § 552, as amended).
15. Filing Date: